

# MEMORANDUM OF UNDERSTANDING

BETWEEN

LOCAL 829, COUNCIL 57

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

AND THE

CITY OF BELMONT

Local 829, Council 57, American Federation of State, County and Municipal Employees, AFL-CIO, and representatives of the City of Belmont have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of employees in the representation unit listed in Appendix "A", have exchanged freely information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510) and has been jointly prepared by the parties.

This Memorandum of Understanding shall be presented to the Belmont City Council as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing July 1, 2004 and ending June 30, 2005.

## Section 1. Recognition

### 1.1 City

The City Manager, or any person or organization duly authorized by the City Manager, is the representative of the City of Belmont, hereinafter referred to as the "City", in employer-employee relations.

### 1.2 Union

Local 829, Council 57, American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union" or "AFSCME 829" is recognized as the majority representative, as provided in the City's Employer-Employee Relations Ordinance, for all employees assigned to the classifications set forth in Appendix "A", which is attached hereto and made a part hereof.

## Section 2. Union Security/Agency Shop

### 2.1 Agency Shop

1. The Union agrees that it has the duty to provide fair and non-discriminatory representation to all employees in all classes in the units for which this section is applicable regardless of whether they are members of the Union.
2. All employees within this bargaining unit shall:
  - a. Become and remain a member of the Union, or

- b. Become an agency fee payor by paying the Union an agency fee in an amount which may not always be less than but, will never be more than an amount which may be lawfully collected under applicable constitutional, statutory and case law made during the duration of this Memorandum of Understanding, it being understood that it shall be the sole responsibility of the Union to determine an agency fee which meets the above criteria, or
- c. Do both of the following:
- 1) Present to the Union a written declaration that the employee is a member of a bona fide religion, body, or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization, or presents a declaration that the employee registers a deep philosophical objection to joining or financially supporting a public employee organization; and
  - 2) Pay a sum equal to the agency fee described above to one of three negotiated non-religious, non-labor, charitable funds that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
3. All new employees who are hired into classifications covered by this Memorandum of Understanding on or after the effective date of this Agency Shop provision as specified above, shall at the time of hire execute an authorization for the payroll deduction of one of the options specified in Section 2. a., b., and c. above.
  4. It shall be the duty and responsibility of the Union to notify all members of the bargaining unit, to and including new employees and re-assigned members who become members of this bargaining unit, of their agency shop participation, financial obligations, and religious, conscientious and/or philosophical options.
  5. The City shall, in all appropriate cases, implement a mandatory deduction from pay for all employees within this bargaining unit for Union dues, agency fees or exemption donations. However the City shall not be required to dismiss or otherwise discipline any bargaining unit member for failure to fulfill their obligations under agency shop.
  6. The Union shall provide the City with a copy of the Union's administrative procedure and appeal process for the determination and protest of its agency fees. The Union shall provide a copy of said administrative procedure and appeal process to every agency fee payor covered by this Memorandum of Understanding as provided in Section C.2.c., and annually thereafter and as a condition to any percentage change in the agency fee or, upon request by any agency fee payor in this bargaining unit.
  7. If, after all other involuntary and insurance premium deductions are made in any pay period including medical insurance, Medicare, tax withholding, garnishment, judgement or governmental levy, and the balance is not sufficient to pay the deduction of Union dues, agency fee, or charity fee required by this Section, no such deduction shall be made for the current pay period. The City shall not hold over or accrue insufficient agency fee payments to other pay periods.
  8. The provisions of this Section shall not apply during periods that an employee is separated from the bargaining unit, but shall be reinstated upon the return of the employee to the bargaining unit. For the purpose of this Section, the term separation includes transfer out of the bargaining unit, layoff, and leave of absence without pay. All other legal and required deductions have priority over agency fee deductions.
  9. Annually, the Union shall provide the Director of Human Resources with copies of the financial report which the Union annually files with the California Employee Relations

Board, the United States Department of Labor (Form LM-2), or the Union's balance and operating statement for the prior year. Failure to file such a report within sixty (60) days after the end of its fiscal year shall result in the termination of all agency fee deductions without jeopardy to any employee, until such report is filed.

B. Compliance

1. New Employees

Upon request, the City shall furnish the Union with copies of "Employee Authorization for Payroll Deductions" documents related to Agency Shop or Union Dues Deductions executed by new employees. Within ten (10) working days of hire, the City shall provide the names of the new employees in this bargaining unit to the Union. The Union shall furnish all agency fee payors with copies of the Union's administrative procedure and appeal process, and shall provide to the City confirmation of such notification to the new employees.

2. Current Employees

- a. An employee employed in a bargaining unit that has been granted Agency Shop in accordance with Section B. above in a job class or position covered by this Memorandum of Understanding shall be provided by the City with an "Employee Authorization for Payroll Deduction" form.
- b. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after receipt of notice of the Agency Shop provision and the "Employee Authorization for Payroll Deduction", the City shall so notify the Union, providing the employee's name, address, classification, and department. The Union may then, in writing, direct that the City withhold the agency fee from the employee's salary, in which case the employee's biweekly salary shall be reduced by an amount equal to the agency fee and the City shall pay that amount withheld to the Union.
- c. Within ten (10) working days of the date current employees submit their Employee Authorization for Payroll Deduction, the Union shall provide to the City confirmation that it has furnished each agency fee payor with a copy of the Union's administrative procedure and appeal process.

3. New and Current Employees

The Agency Shop provisions of this Section may be revoked by the bargaining unit membership in the manner provided under Section 3502.5(b) of the California Government Code.

- C. The Union shall indemnify, defend, and save the City of Belmont, its officers, agents and employees harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this Article or action taken or not taken by the City under this Article, and shall promptly reimburse the City for reasonable legal fees and costs incurred by the City in responding to or defending against any claims, disputes or challenges. This includes, but is not limited to, the City's attorney fees and costs; to and including the reserved right of the City to select counsel of its own choice.

2.2 Dues Deduction

The Union may have the regular dues of its members within the representation unit deducted from employees' pay checks under procedures prescribed by the City for such deductions. The City shall accept authorization for dues deduction on a monthly basis.

Employees may authorize such dues deduction only for the organization certified as the recognized employee organization of the unit to which such employees are assigned. Dues deduction shall be made only upon signed authorization from the employee upon a form furnished by the City, and shall continue: (1) until the transfer of the employee to a unit represented by another employee organization or (2) until such authorization is revoked, in writing, by the employee in accordance with the provisions of this Section. Current dues deduction authorization forms may not be revoked during the term of this Memorandum of Understanding executed by the City and the Union, provided, however, that during the period of sixty (60) to ninety (90) days immediately preceding the expiration of this Memorandum of Understanding or during the period of sixty (60) to ninety (90) days immediately preceding the expiration of any successor memorandum of understanding, employees shall be able to revoke current dues deduction authorization forms by notification to the City. Amounts deducted and withheld by the City shall be transmitted to the officer designated in writing by the Union as the person authorized to receive such funds, at the address specified. The employee's earnings must be sufficient, after all other required deductions are made, to cover the amount of the deductions herein authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings nor will the employee deposit the amount with the City which would have been withheld if the employee had been in pay status during that period. In the case of an employee who is in a non-pay status during a part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all required deductions have priority over the Union dues deduction. The Union shall indemnify, defend and hold the City harmless against any claim made and against any suit initiated against the City on account of the checkoff of Union dues. In addition, the Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

**2.3 Dues Deduction for PEOPLE**

Employees may voluntarily elect to have contributions, at a minimum of two dollars (\$2.00) per month, deducted from their paychecks under procedures prescribed by the City for the Public Employees Organized to Promote Legislative Equality Fund (PEOPLE of AFSCME). Such deductions shall be made only upon signed authorization from the employee and shall continue until such authorization is revoked in writing.

**2.4 Communications with Employees**

The Union shall be allowed by a City department, in which it represents employees, use of available bulletin board space for communications having to do with official Union business provided such use does not interfere with the needs of the department.

**2.5 Advance Notice**

Except in cases of emergency, reasonable advance written notice shall be given to the Union if it is affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council, by any board or commission of the City, or by any department, as the Union shall be given the opportunity to meet with such body prior to adoption. In cases of emergency when the City management determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with the Union, City management shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

**2.6 List of Unit Employees**

The City shall furnish the Union with the names, classifications and date of hire of employees newly assigned to the unit and employees leaving the unit.

### **Section 3. No Discrimination**

There shall be no discrimination because of race, creed, color, national origin, sex, sexual orientation, age, physical or mental disability, marital status, medical condition, religion, political activity, or legitimate union activities against any employee or applicant for employment by the Union or by the City.

### **Section 4. Representation Rights**

#### **4.1 Employee Representatives for Grievances**

The Union may designate a reasonable number of City employees as official employee representatives to assist in the handling of grievances. The Union shall notify the City Manager in writing of the individuals so designated. Alternates may be designated to perform this function during the absence or unavailability of the official employee representative.

The official employee representative may be relieved from the employee's assigned work duties by the employee's supervisor to investigate and process grievances initiated by other employees within the same work area. The use of time for this purpose shall be reasonable and shall not interfere with the performance of services as determined by the City.

#### **4.2 Access to Work Locations**

Reasonable access to employee work locations shall be granted officers of the Union and business agents for the purpose of processing grievances or contacting members of the Union concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the City Manager or the City Manager's designated representative. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of the Union, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature shall not be conducted during working hours unless approved in advance by the City Manager or the City Manager's designated representative.

Whenever an employee is required to meet with a supervisor or other management official and the employee reasonably anticipates that such meeting will involve questioning leading to disciplinary action, the employee shall be entitled to have an official employee representative present upon request. It is not the intention of this provision to allow the presence of an official employee representative during the discussion of an employee's performance evaluation.

#### **4.3 Access to Personnel Files**

An employee or, an employee's representative, on presentation of written authorization from the employee, shall have access to the employee's personnel file upon request during the City's normal working hours. At or before time of placement employees shall be given a copy of all letters or memoranda concerning the employee's job performance which are to be placed in the employee's permanent personnel record.

The employee shall be entitled to respond in writing to any such letters or memoranda with which the employee disagrees and to have the response attached to such letters or memoranda in the employee's personnel file.

Upon the employee's written request, a written counseling or written warning, along with any response thereto, will be removed from the employee's personnel file after three (3) years from the date of issuance, provided that no related conduct has occurred in the intervening period.

## **Section 5. Salary Plan**

### **5.1 Salaries**

Salary ranges for represented classifications shall be as set forth in Appendix "A," which is attached hereto and made a part hereof.

### **5.2 Application of Wage Rates**

Employees shall be assigned a salary or wage by the City Manager within the range established for the appropriate position under the salary schedule. The minimum rate generally shall be assigned to employees upon original appointment; however, the City Manager may, when circumstances warrant it, appoint, reinstate or promote at other than the minimum rate, but at not more than the maximum rate.

### **5.3 Advancement Within Salary Range**

No salary advancement shall be made so as to exceed any maximum rate established in the salary schedule for the employee's position. No increase in salary shall be automatic merely upon completion of a specified period of service. All increases shall be based on merit as established by a record of the employee's performance and shall require a recommendation of the department head and approval by the City Manager. In case of an unsatisfactory employee performance evaluation, an increase in salary may be withheld. An employee who is denied an increase in salary may discuss such denial with the employee's department head and the City Manager. The decision of the City Manager shall be final.

An employee shall be eligible for advancement by the City Manager to the next higher step in the employee's salary range following the satisfactory completion of the first year of service, and after additional one-year periods thereafter. If the City Manager deems a special salary step adjustment is justified, an employee may receive such salary advancement earlier.

The employee's salary anniversary date will change when:

- (A) The employee receives a step increase less than one (1) year after the employee's date of hire or less than one (1) year after the employee's prior step increase;
- (B) The employee is promoted to a class with a higher maximum salary;
- (C) The employee is demoted to a class with a lower maximum salary; or
- (D) The employee takes a leave of absence for any reason in excess of two (2) weeks.

Whenever the salary schedule for a classification is revised, each incumbent in a position to which the revised schedule applies shall be paid at the same step in the revised range as the step at which the employee was paid in the previous range.

#### 5.4 Salary after Promotion or Demotion

When an employee is moved from one class to a class with a higher maximum salary (promotion), the employee shall be appointed at the minimum step of the salary range in the new class, provided, however, that the employee receives a minimum five percent (5%) increase in salary upon such promotion.

When an employee is moved from one class to a class with a lower maximum salary (demotion), that employee's compensation shall be adjusted to the salary prescribed for the class to which the employee is demoted, and the specific rate of pay within the range shall be determined by the City Manager, whose decision shall be final.

When an employee is demoted in accordance with Section 8.1 (Layoff Procedure), the employee shall be placed at the step of the salary range prescribed for such lower class that most nearly approximates the salary the employee was receiving, provided, however, that such salary does not exceed the maximum rate for such lower class.

#### 5.5 Pay for Work Out of Class

When an employee has been assigned in writing by the department head or designated representative to perform the work of a permanent position having a different classification and being paid at a different rate, and if the employee has worked in such classification for more than ten (10) consecutive workdays after each such written assignment by the department head, the employee shall be entitled to payment for the higher classification. Such payment shall be at the rate for the same step of the higher classification salary range as the step at which the employee is being paid in the employee's current classification. Such payment shall start on the eleventh (11th) workday and continue during the period of temporary assignment. The rate paid shall not exceed the top step of the assigned classification. Assignment of individuals to such upgraded position cannot be changed in successive ten (10) workday periods to preclude payment of the higher rate as set forth herein.

#### 5.6 Pay Period

Employees shall be paid semi-monthly. As soon as practicable, the City will convert to a bi-weekly payroll system. All paychecks will be delivered through either direct deposit or a City pay card system.

#### 5.7 Certification Pay

- (A) Employees in the maintenance classifications who earn department head-approved and endorsed Qualified Applicator (QAC) certifications are eligible to receive a \$100 bonus upon certification and/or renewal.
- (B) Employees in the building inspection classifications who earn department head-approved and endorsed plumbing, electrical, or carpentry certifications are eligible to receive a bonus of \$100 per certification or renewal, up to a maximum of three certifications per contract term.
- (C) Employees holding said certifications on July 1, 2001 will become immediately eligible for the amounts listed in (A) and (B) above upon submission of the documentation and approval by the department head.

### **Section 6. Probationary Period**

#### 6.1 Duration

All original and promotional appointments shall be tentative and subject to a probationary period of not less than twelve (12) months from the date of probationary appointment or promotion. Such probationary period may be extended if the employee has been on leave of absence for any reason in excess of a total of thirty (30) calendar days during such probationary period. The probationary period may also be extended for up to three (3) months in the event of performance shortcomings documented in a performance evaluation.

Employees who transfer to another position in the same classification shall not be required to undergo a new probationary period in the same position into which transferred provided the employee has completed the employee's probationary period in the classification at the time of transfer.

#### **6.2 Promotional Probation**

An employee who has previously completed the requisite probationary period and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position from which the employee was appointed. If the employee is discharged during the promotional probationary period, the employee shall not be entitled to such reinstatement rights.

### **Section 7. Transfer, Promotion, Employment Lists**

#### **7.1 Transfer**

No employee shall be transferred to a position for which the employee does not possess the minimum qualifications. Upon approval by the City Manager, an employee may be transferred by the department head at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications. If the transfer involves a change from one department to another, both department heads must consent thereto, unless the City Manager orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in the City's rules and regulations. Such transfer shall not result in the loss to the employee of any accumulated leave, such as vacation and sick leave, nor shall it affect the employee's length of service with the City of Belmont.

#### **7.2 Promotion**

Insofar as is consistent with the best interest of the City, all vacancies in the competitive service shall be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established.

#### **7.3 Time Off for Interview or Examination**

Interviews for the City of Belmont jobs and promotional examinations scheduled by the City during an employee's regular working hours may be taken without loss in compensation.

#### **7.4 Reclassification**

Reasonable, advance written notice shall be given to the Union of any proposed reclassification or elimination of a position or classification covered by this Memorandum of Understanding. In the event such reclassification results in the position or classification being moved into a different bargaining unit, the City will offer AFSCME the opportunity to meet about such change.

An employee who believes his or her job duties and responsibilities have changed sufficiently to warrant reclassification may submit a request for reclassification in accordance with the procedures outlined in Section 10.6 of the Personnel Rules and Regulations.

### **Section 8. Layoffs**

#### **8.1 Layoff Procedure**

The City Manager may lay off an employee because of material change in duties or organization or shortage of work or funds. Except in cases of emergency, the City



Manager shall advise the employee in writing of the proposed action with reasons therefor at least twenty-eight (28) calendar days in advance of such action. The name of such employee shall be placed at the top of the appropriate list and the employee shall have the right to displace an employee in the same, lateral or lower classification within the same department for which the employee is qualified. The City Manager or designee, shall determine if an employee is qualified for a lateral or lower classification and shall provide a relevant explanation if an employee is determined to not be qualified. Employees identified for layoff who have displacement rights to same, lateral or lower classifications must notify the City Manager in writing that they will exercise these rights at least twenty-three (23) calendar days prior to layoff, otherwise displacement rights will automatically terminate. Employees of another representation unit (including employees who are unrepresented) may not be displaced. Employees laid off as a result of another employee's exercise of displacement rights shall not be entitled to another twenty-eight (28) calendar day notice, but the minimum notice shall be fourteen (14) calendar days.

#### **8.2 Re-Employment**

The name of each employee who is laid off in accordance with these rules and regulations shall be placed at the top of the employment list in the class which the employee held in order of City seniority and shall be given preference in filling vacancies in such class for a period of one (1) year following the date of lay off. The employee also may choose to be placed on the employment list in the class(es) the employee previously held within the department and shall be placed on the top of such list in accordance with the employee's City seniority.

#### **8.3 Abolition of Position**

The provisions of this Section 8 shall apply when an occupied position is abolished.

#### **8.4 Contracting of Services**

The City will give the Union no less than sixty (60) days notice of its intention to contract for services which are being performed by employees covered by this Memorandum of Understanding. The parties will meet and confer in an expedited manner over the impact such contracting of services may have on said employees, and the Union may propose and the City will consider reasonable alternatives to contracting of City services.

### **Section 9. Resignation and Reinstatement**

#### **9.1 Resignation**

Any employee wishing to resign from employment in good standing shall file with the department head at least two (2) week's notice of an intention to leave City service unless a shorter period of time is agreed upon between the employee and the department head. The written resignation shall state the effective date and reasons for leaving.

#### **9.2 Reinstatement**

A regular or probationary employee who has resigned in good standing may be reinstated by the City Manager, upon recommendation of the department head, to a vacant position of the same class as the previous position held within a period of one (1) year from the effective date of such resignation. A new probationary period may be required.

### **Section 10. Reallocation of Position**

An employee in a position reallocated to a lower classification shall have the right of: (1) transferring to a vacant position in the employee's present classification in the same or another department, provided the head of the department into which the transfer is proposed agrees, or (2) continuing in the same position in the lower classification at a Y rate of pay when the incumbent's pay is higher than the maximum step of the schedule for the lower classification. Such Y rate of pay shall be discontinued when the incumbent

ceases to occupy the position or whenever the maximum pay of the salary assigned to the lower classification equals or exceeds such Y rate. The Y rate provisions of this Section shall not apply to layoffs, demotions, or other personnel actions resulting in an incumbent moving from one position to another.

## **Section 11. Performance Evaluation Procedure**

### **11.1 Process**

Performance reports on each employee shall be filed by the department head at regular intervals with the City Manager in such form as the City Manager shall prescribe. Reports of performance shall be governed by the following:

(A) The City Manager shall send a form for each employee to the appropriate department head on the anniversary date each year and the department head shall complete and return the form within thirty (30) days.

(B) Performance reports shall be required every two (2) months for employees during their probationary period.

(C) When the department head observes a change in an employee's work performance sufficient to cause a change in the department head's overall rating, a report shall be filed.

(D) All performance reports must be reviewed by the affected employee who shall affix the employee's signature to the report acknowledging that the employee's performance evaluation has been reviewed with the department head.

### **11.2 Discussion With Employee**

Each department head or supervisor who has prepared a performance report must discuss the report with the employee and obtain the employee's acknowledgment of the discussion of the report thereon, before submitting it to the City Manager. The signature of any supervisor preparing the report shall also appear on the performance report, as well as that of the department head.

Each employee shall be given a copy of the performance report and shall have an opportunity to review the performance report rating with the department head before the report is filed with the City Manager.

### **11.3 Appeals of Performance Report**

Within five (5) days after receiving the employee's report of performance, an employee may request, in writing, a review of the report with the City Manager. Within five (5) days after said review, the City Manager shall either accept the original report, a modified report, or cause a new report to be prepared which shall be entered into the personnel file as the official report. The official report shall bear the City Manager's signature.

### **11.4 Use of Performance Reports**

Performance reports shall be considered by the City Manager in determining salary increases and decreases, the advisability of transfers, demotions and dismissals, and in promotional examination. Performance reports are highly confidential and are available only to the Council and appropriate department heads and affected employees.

### **11.5 Non-Grievability**

This Section 11 shall not be subject to the grievance procedure in Section 20 of the Memorandum of Understanding.

## **Section 12. Hours of Work, Overtime, Premium Pay**

### **12.1 Hours of Work**

The standard workweek for employees occupying full-time positions consists of forty (40) hours per week unless otherwise specified by the City. An alternate work schedule (9/80 or 4/10) may be approved by the City Manager. An employee requesting such an alternate schedule must submit a plan to the department head describing in detail the specific schedule and the anticipated impact on the City's operations. The City will remain open for business Monday through Friday from 8:00 AM until 5:00 PM and will continue to provide a high level of service to the citizens of Belmont. The decision of the City Manager will be final and not subject to the Grievance Procedure.

### **12.2 Overtime**

Authorized work performed in excess of forty (40) hours in one (1) week shall constitute overtime. All compensable overtime must be authorized by the department head or the department head's designated representative in advance of being worked. If prior authorization is not feasible because of emergency conditions, a confirming authorization must be made on the next regular working day following the date on which the overtime was worked. An employee required to work in excess of the regularly scheduled hours of work (normally 8 hours, or 10 hours for employees working a 4/10 work schedule) shall be compensated for each overtime hour so worked at the rate of one and one-half (1-1/2) times the employee's regular straight-time rate of pay. An employee required to work any overtime between the hours of 12:00 Midnight and their regularly scheduled start time shall be compensated for each such overtime hour at the rate of two (2) times the employee's regular straight-time rate of pay. Payment for overtime worked will be either cash or compensatory time off upon mutual agreement of the department head and the employee subject to the availability of funds and with consideration of the employee's current accumulation of compensatory time off.

The above provision for overtime shall be granted in accordance with state and federal law.

### **12.3 Scheduled Workday**

Employees covered by this Memorandum of Understanding will not have a scheduled workday reduced in whole or in part to compensate for time which they are ordered to work in excess of another regularly scheduled workday. An employee and his/her supervisor may agree to adjust the employee's regularly scheduled workday in lieu of overtime compensation so long as such regularly scheduled workday adjustment occurs within the employees designated work week. The City may require a temporary shift change that is scheduled in advance within the normal hours of work.

The City's policy is that employees are to receive one (1) fifteen (15) minute rest period for each four (4) hours worked. The Union recognizes that under extenuating circumstances which are considered the exception to practice, an employee may not be able to take said rest period.

### **12.4 Call Back**

An employee recalled to work outside of and not continuous with regularly scheduled hours shall be paid a minimum of one (1) hour at the rate of one and one-half (1-1/2) times the employee's regular rate of pay.

### **12.5 Stand-By Duty**

An employee assigned to be on stand-by to answer calls outside of regularly scheduled hours shall receive two (2) hours pay at the employee's regular rate of pay for each week night of stand-by time. An employee assigned to be on stand-by on Saturday or Sunday shall receive two (2) hours' pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay for each day assigned. An employee assigned to be on

stand-by on any holiday shall receive four (4) hours' pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay.

An employee may elect to use a vehicle provided by the City or his/her own personal vehicle.

There shall be two (2) employees designated to be on stand-by, one (1) of whom shall be designated as "primary" and the other shall be designated as "secondary". The primary stand-by employee shall be called first, and the secondary stand-by employee shall be called when, in the opinion of the primary stand-by employee, the secondary stand-by employee is needed.

#### 12.6 Back-Up Duty

Back-up assistance needed for call-outs will be drawn from other employees on the sewer stand-by list. For each response to a call-out, the back-up employee shall receive one-seventh (1/7) credit toward eight (8) hours of compensatory time off. The minimum period for which an employee shall be called out shall be one (1) hour. These credits shall accumulate until any individual maintenance employee who responds in a back-up capacity has assisted the primary maintenance employee assigned to on-call status for seven (7) call hours, at which time the back-up employee will be credited with eight (8) hours of compensatory time off.

#### 12.7 Utilization of Compensatory Time Off

Compensatory time off will be taken at a time agreeable to the employee and the department head.

### **Section 13. Holidays**

#### 13.1 Authorized Holidays

The holidays to be observed in this City are as follows and employees shall not be required to be on duty unless the department head has so indicated:

New Years Day	January 1
Martin Luther King Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	
Christmas Day	December 25

In addition to the above-listed holidays, employees shall receive two (2) Floating Holidays, to be taken, after one (1) year of service, at any time mutually convenient to the department head and the employee and every day proclaimed by the President of the United States, Governor of California, or Mayor of this City as a public holiday. Floating Holidays will only be usable as time off and may not be paid out upon separation from City service. Floating Holidays must be used in the calendar year in which they are accrued and may not be carried over into a subsequent calendar year.

When a holiday falls on Sunday, the following Monday shall be observed. When a holiday falls on Saturday, the previous Friday shall be observed. If the holiday falls on an employee's regularly scheduled day off, compensatory time shall be granted.

Either the day before Christmas or the day before New Year's Day shall be a holiday, the specific day to be determined by mutual agreement between the employee and the department head, and the employee shall not be required to be on duty unless the department head has so indicated.

### 13.2 Work Performed on a Holiday

Any regular full-time employee who is required to work on any of the holidays specified in Section 13.1 shall be paid as follows:

If an employee works on a holiday that falls on a regularly scheduled work day, such employee shall receive 8 hours of holiday pay, plus one and one-half (1.5) times the employee's regular straight time pay rate for all hours actually worked on the holiday, and one (1.0) times compensatory time off for all hours actually worked on the holiday, for a total of 2.5 times all hours actually worked on the holiday. For example, if an employee works 3 hours on a holiday that falls on a regularly scheduled work day, the employee will receive 8 hours of holiday pay, plus 3 hours of time and one-half pay, plus 3 hours of straight time compensatory time.

If an employee works on a holiday that falls on a regular day off, such employee shall receive 8 hours of holiday credit, plus one and one-half (1.5) times the employee's regular straight time pay rate for all hours actually worked on the holiday, and one (1.0) times compensatory time off for all hours actually worked on the holiday, for a total of 2.5 times all hours actually worked on the holiday. For example, if an employee works 3 hours on a holiday that falls on a regular day off, the employee will receive 8 hours of holiday credit, plus 3 hours of time and one-half pay, plus 3 hours of straight time compensatory time.

### 13.3 Holiday During Vacation

In the event any of the holidays specified in Section 13.1 above occurs while an employee is on vacation, the holiday shall not be charged to vacation.

## **Section 14. Vacation Leave**

### 14.1 Vacation Allowance

Regular full-time employees shall be entitled to vacation leave as follows:

<u>Length of Service</u>	<u>Days of Vacation</u>	<u>Hours Accrued Per Month of Service</u>
1 through 4 years	10 days	6-2/3 hours
5 years	15 days	10 hours
6 years	16 days	10-2/3 hours
7 years	17 days	11-1/3 hours
8 years	18 days	12 hours
9 years	19 days	12-2/3 hours
10 or more years	20 days	13-1/3 hours
15 or more years	22 days	14-2/3 hours

### 14.2 Vacation Accumulation

In the event an employee is unable to take all of the vacation leave to which the employee is entitled in a calendar year, the employee shall be permitted to accumulate the unused portion to the employee's credit, provided that the accumulated time does not exceed two times the employee's annual allowance, unless an extension is granted by the City Manager due to exceptional circumstances. Employees who have reached their accrual

limit will not accrue any additional vacation unless and until their accrued vacation is below their accrual limit.

**14.3 Pay Upon Termination**

Employees who leave City service, shall be paid straight-time salary for all accrued vacation leave earned on or before the effective date of termination.

**14.4 Vacation Scheduling**

The time during a calendar year at which an employee may take the employee's vacation shall be determined by the department head with due regard for the wishes of the employee and the needs of the City.

**Section 15. Sick Leave**

**15.1 Accrual and Usage**

Sick leave, with pay, shall be granted to all full-time regular and probationary employees. Sick leave shall not be considered as a right which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual personal or family sickness or disability. In order to receive compensation while absent on sick leave, the employee shall notify the employee's immediate supervisor prior to the time set for beginning the employee's daily duties. An employee taking sick leave may be required to file a physician's certificate or personal affidavit with the supervisor or department head stating the cause of the absence.

For purposes of computing sick leave, one (1) day shall be considered as eight (8) working hours. In the event that one or more City holidays fall within a period of an employee's illness on sick leave, such holiday shall not be charged against the employee's sick leave balance. Sick leave shall be earned at the rate of one (1) day for each calendar month of service.

A maximum of forty-eight (48) hours of accumulated sick leave may be taken each calendar year in case an employee's presence is required elsewhere because of sickness or disability affecting the employee's immediate family. The immediate family shall consist of the spouse, children, parents, brothers, sisters, domestic partner or dependents of the employee.

**15.2 Accumulation**

Unused sick leave shall be accumulated to a total of not more than one hundred eighty (180) days. An employee who is off on sick leave shall be entitled to accumulate earned sick leave while using the employee's previously earned sick leave. An employee who is on leave without pay shall not accumulate sick leave credits.

**15.3 Workers' Compensation - Integration with Sick Leave**

In the event that the employee chooses to integrate the employee's accumulated unused sick leave with Workers' Compensation and Workers' Compensation payments cover all or part of the period during which sick leave is paid, the sum of the two shall not exceed the sick leave benefit payable for said period, and the unused portion of accumulated sick leave will continue to be credited to the employee.

**15.4 Pay for Unused Sick Leave Upon Separation from City Service**

Upon separation, the City shall compensate employees for accumulated sick leave at the rate of twenty-five (25%) percent of days accumulated for employees with at least six (6) but less than twenty (20) years of service with the City and at the rate of thirty-five (35%)

percent of days accumulated for employees with twenty (20) or more years of service with the City. In either case payment will be made up to a maximum of one hundred eighty (180) accumulated days at the percentages herein specified. This provision shall not apply when an employee is discharged.

Upon retirement or death, the City shall compensate employees for accumulated sick leave at the rate of twenty (25%) of days accumulated for employees with at least five (5) years but less than ten (10) years of service with the City, and at the rate of fifty (50%) percent for employees with ten (10) or more years of service with the City. In either case payment will be made up to a maximum of one hundred eighty (180) accumulated days at the percentages herein specified. For the purposes of this section, retirement will be defined as receiving PERS retirement benefit.

#### 15.5 Temporary Employees

Temporary full-time employees who are appointed to a regular position in the same classification, without a break in service with the City in excess of two (2) weeks, shall have credited to their sick leave balance eight (8) hours of sick leave for each full month of temporary service with the City up to a maximum of forty-eight (48) hours.

### **Section 16. Other Leaves**

#### 16.1 Bereavement Leave

A maximum of five (5) days of accumulated sick leave may be taken each calendar year in case an employee's presence is required elsewhere because of death affecting the employee's immediate family. The immediate family shall consist of the spouse, domestic partner (as defined in Section 17.11), children, parents, brothers, sisters or dependents of the employee. The Department Head may grant such leave because of death of a member of the employee's household and not a member of the immediate family when the Department Head deems it appropriate to do so. In addition, up to five (5) days of compensatory time or vacation may be used, with prior management approval, to extend leave provided above.

#### 16.2 Industrial Disability Leave of Absence

Any regular full-time employee of the City who has suffered a disability caused by illness or injury arising out of and in the course of the employee's employment, as defined by the Workers' Compensation laws of the State of California, shall be entitled to disability leave while so disabled without loss of compensation for the period of such disability to a maximum of eighty (80) hours.

During the period the employee is paid by the City, the employee shall endorse to the City any benefit payments received as a result of Workers' Compensation insurance coverage.

The City reserves the right to withhold payment of any disability benefits until such time as it is determined whether or not the illness or injury is covered by Workers' Compensation.

The benefits of sick leave and disability leave shall be mutually exclusive and no sick leave benefits may be used for the purposes specified under this Section 16.2.

If the employee's disability caused by illness or injury arising out of and in the course of the employee's employment extends beyond the eighty (80) hours described above, the employee may integrate the employee's unused sick leave, vacation leave, and compensatory time-off accruals with the Workers' Compensation payments provided that the sum of the Workers' Compensation payments and paid leave does not exceed the employee's regular rate of pay for said period.

Industrial disability leave may not exceed twelve (12) months and ten (10) days unless extended by the City Manager whose decision shall be final.

The City shall continue to pay the insurance premiums for the employee when an employee is on a leave of absence without pay as a result of an industrial disability in accordance with this Section.

#### 16.3 Non-Industrial Disability Leave Without Pay

An employee who is disabled by reason of illness or injury which is not job-incurred may be granted a leave of absence without pay so long as such disability continues and is substantiated by a physician's statement. Such leave shall not exceed twelve (12) months and may be granted only after the employee has used all the employee's accrued sick leave. At the employee's option, accrued vacation and compensatory time off may be used during the period of such leave.

When such disability is by reason of pregnancy, childbirth or related medical conditions, as substantiated by a physician's statement, a leave of not less than six (6) weeks shall be granted. If such disability continues beyond that period, leave shall be granted to a maximum of four (4) months, at which time the disabled employee shall be subject to the provisions of paragraph 1 above. The total leave granted under this Section 16.2 shall not exceed twelve (12) months. Family and medical leave, including disability leave for pregnancy, childbirth or related medical condition shall be granted in accordance with applicable state and federal law.

The City shall continue to pay the insurance premiums for the employee when an employee is on a leave of absence without pay as a result of a non-industrial disability in accordance with this Section.

#### 16.4 Personal Leave of Absence

The City Manager may grant a permanent employee a leave of absence without pay or benefits for a period not to exceed ninety (90) days. Request for such leave shall be in writing and shall be approved in advance by the City Manager in writing.

#### 16.5 Limited Duty

Upon the advice of the employee's physician, an employee may request transfer to less strenuous or hazardous duties within the employees' classification which the employee is qualified to perform. Such duty shall not result in the transfer, layoff or other displacement of any other employee covered by this Agreement.

#### 16.6 Jury Duty

An employee summoned to jury duty shall inform the employee's supervisor and, if required to serve, may be absent from duty with full pay; provided, however, the employee must remit to the City all fees received except those specifically allowed for mileage and expenses.

#### 16.7 Military Leave

Military leave shall be granted in accordance with the provisions of State and Federal law. All employees entitled to military leave shall give the appointing authority an opportunity within the limits of military regulations to determine when such leave shall be taken.

#### 16.8 Seniority Rights and Salary Adjustments While On Leave of Absence

Seniority begins on date of hire. After successful completion of probation, seniority continues to accrue until termination. If termination is voluntary or if the employee is on an approved leave of absence, seniority will not accrue during the period of the leave or the voluntary termination. If the employee returns to employment within 12 months of taking leave or voluntary termination, seniority will resume accrual upon date of return.



Authorized leave of absence without pay which exceeds two (2) weeks for: (1) leave of absence for personal reasons, or (2) leave of absence for non-industrial illness or injury, or (3) leave of absence for industrial illness or injury shall not be included in determining salary adjustments. Authorized leave of absence without pay which exceeds thirty (30) calendar days for: (1) leave of absence for personal reasons, or (2) leave of absence for non-industrial illness or injury, or (3) leave of absence for industrial illness or injury shall not be included in determining seniority rights.

#### 16.9 Catastrophic Leave Program

Effective the first pay period in September, 1991, a permanent employee may be eligible to receive donations of paid leave other than sick leave, to be included in the recipient employee's sick leave balance if she/he has suffered a catastrophic illness or injury which prevents the employee from being able to work. Catastrophic illness or injury is defined as a critical medical condition considered to be terminal, a long-term major physical impairment or disability.

- a) The recipient employee, recipient employee's family, or other person designated in writing by the recipient employee must submit a request to the City Manager.
- b) The recipient employee is not eligible so long as she/he has paid leaves available, however, the request may be initiated prior to the anticipated date leave balances will be exhausted.
- c) A medical verification including diagnosis and prognosis must be provided by the recipient employee.
- d) A recipient employee is eligible to receive ninety (90) working days of donated time per employment. Requests for exceptions to this limit may be submitted to the City Manager whose decision shall be final.
- e) Donations shall be made in full-day increments of eight (8) hours, and are irrevocable. The donor employee may donate vacation up to any amount so long as the donor employee retains at least eighty (80) hours of vacation. Compensatory time may also be donated without limit on the amount. Sick leave may not be donated.
- f) Time donated will be converted from the type of time donated to sick leave and credited to the recipient employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the recipient employee. All sick leave provisions will apply.
- g) Time donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted.
- h) The determination of the employee's eligibility for Catastrophic Sick Leave donation shall be at the City Manager's sole discretion and shall be final and non-grievable.

#### 16.10 Family Care Leave and Paid Family Leave

The City will provide Family Care Leave in accordance with the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), and the Personnel Rules and Regulations. The City will provide Paid Family Leave, a component of State Disability Insurance (SDI), in accordance with state legislation.

### **Section 17. Health and Welfare Plans**

#### 17.1 Hospital and Medical Care Benefits

The City will participate in the Public Employees' Medical and Hospital Care Act medical plans, as administered by PERS, and make contributions as required by PEMCHA for active and retired employees.

#### 17.2 Flexible Benefits Plan

The City shall offer an Internal Revenue Code Section 125 Plan which contains the components of premium conversion, health care reimbursement account, dependent care reimbursement account, and cash option. Effective July 1, 2001, the City shall contribute five hundred and twenty-five dollars and seventy-five cents (\$525.75) toward each employee's Section 125 Plan components. In subsequent years, the City's contribution toward the Internal Revenue Code Section 125 Plan shall be increased by one hundred percent (100%) of the amount of any increase from the previous December 1st in the cost for full family coverage under the Kaiser health plan. An employee may use any and all such funds toward the cost of employer-provided health insurance for the employee and eligible dependents. An employee may use any and all such funds as contributions into the health care reimbursement account, dependent care reimbursement account, or cash option.

If, pursuant to any federal or state law which may become effective subsequent to the effective date of this Memorandum of Understanding, the City is required to pay contributions or taxes for hospital-surgical, dental care, prescription drug or other health benefits to be provided its employees under such federal or state act, the parties agree to meet and confer regarding the impact of such a plan on existing benefits. In no event will the cost obligation specified in this agreement for providing benefits be automatically increased as a results of such federal or state plan.

#### 17.3 Vision Care

The City shall contribute nineteen dollars (\$19.00) per employee per month to provide vision care benefits for the individual employee and the employee's dependents. An employee's election of dependent coverage under this plan shall not be tied to election of dependent coverage under the employee's health plan.

In the event the total vision care benefit fund balance is in excess of One Dollar (\$1.00) on June 30, after paying all vision care benefit claims by employees covered by this Memorandum of Understanding, such excess shall be applied toward reimbursement of allowable dental expenses for such employees not paid through the City's dental plan. Disbursement of such excess funds shall be in accordance with the rules established by the Vision Committee and shall be administered by the Union's Vision Committee representatives and the City.

#### 17.4 Dental Plan

The City will provide Delta Dental plan insurance coverage for employees and their eligible dependents. The City will pay for the majority of the premium cost of the dental plan in accordance with the following schedule of employee monthly contribution:

<u>Benefit Level</u>	<u>Employee Cost</u>
Employee only	\$0.00
Employee +1	\$5.00
Employee +2	\$10.00

#### 17.5 Life and Accidental Death and Dismemberment Insurance

The City shall pay on behalf of each regular full-time employee a monthly premium contribution sufficient to provide life and accidental death and dismemberment insurance in accordance with the schedule below:

<u>All employees with Basic Monthly Earnings of:</u>	<u>Face Amount Principal Sum (Life Insurance)</u>	<u>(Accident Insurance)</u>
Less than \$900	\$20,000	\$20,000
\$900 but less than \$1200	\$25,000	\$25,000
\$1200 but less than \$1500	\$30,000	\$30,000
\$1500 but less than \$1800	\$35,000	\$35,000
\$1800 but less than \$2100	\$40,000	\$40,000
\$2100 but less than \$2400	\$45,000	\$45,000
\$2400 or more	\$50,000	\$50,000

#### 17.6 Long Term Disability

Long-term disability insurance will continue to be provided at the rate established as of July 1, 1993, with the exception that any premium rate reduction realized during the course of this memorandum of understanding shall be allocated to purchase additional long-term disability insurance. The amount of long-term disability insurance shall be based upon the employee's basic monthly earnings, reduced by any deductible benefits. Effective July 1, 2001, the City will reclassify the cost of the long term disability insurance to the employee's salary. The employee shall pay the actual monthly cost of the premium on an after-tax basis.

#### 17.7 State Disability Insurance

The City will continue to participate in the California State Disability Insurance Program. Any benefits received under this program will be automatically integrated with any available sick leave and/or Workers' Compensation benefits.

#### 17.8 Retirement

The City shall contract with PERS to provide a retirement plan which includes the 2% at 55 formula for miscellaneous employees effective July 1, 1996. The City will provide the following optional benefits: Credit for Unused Sick Leave; Industrial Disability Retirement for Local Miscellaneous Members; and Fourth Level of 1959 Survivor Benefits.

#### 17.9 Retiree Health Benefits

##### A. Retirees with five (5) years of service.

An employee who retires in accordance with PERS regulations after five (5) years of continuous employment with the City of Belmont shall be eligible to participate in the PERS health care program. The City will contribute to PERS the required employer contribution for such health plan participation.

##### B. Retirees with ten (10) years of service.

An employee hired before July 1, 1985 who retires in accordance with PERS regulations after ten (10) years of continuous employment with the City of Belmont shall be entitled to monthly reimbursement of the expenses he or she incurs for hospital and medical care premiums for his or her individual coverage only.

##### C. Retirees with twelve (12) years of service.

An employee hired after July 1, 1985 who retires in accordance with PERS regulations after twelve (12) years of continuous employment with the City of Belmont shall be entitled to monthly reimbursement of expenses he or she incurs for hospital and medical care premiums for his or her individual coverage only.

D. Retirees after July 1, 2001

An employee who retires after July 1, 2001 and who retires in accordance with (B) or (C) above shall be entitled to monthly reimbursement of hospital and medical care premiums up to a maximum of the amount paid by the City of Belmont for single employee coverage under the Kaiser health plan.

E. Retiree Dental

A retiree shall be entitled to participate in the City's dental plan at his or her own cost.

17.10 Deferred Compensation

The City shall contribute monthly sums to each employee's account pursuant to the existing City of Belmont Deferred Compensation Plan as set forth in Appendix B.

17.11 Domestic Partner Coverage

The City will provide domestic partner medical, dental, and vision care coverage to the extent and in the manner in which the health plan carriers allow for the domestic partner's enrollment. The domestic partner of the employee shall be defined as an unmarried person, regardless of gender, who resides with the employee and shares the common necessities of life. In a domestic partnership neither partner is married to another; both are at least 18 years of age; are not related by blood so close as to bar marriage; are mentally competent; and are each other's sole domestic partner, intend to remain so indefinitely, and are responsible for their common welfare. Domestic partners will be required to complete, sign, and file with the City an "Affidavit of Domestic Partnership." No person who has filed an Affidavit of Domestic Partnership may file another such affidavit until six months after a statement of termination of the previous partnership has been filed with the City.

## **Section 18. Safety**

18.1 Observance of Safety Rules and Regulations

Both the City and the Union shall expend every effort to ensure that work is performed with a maximum degree of safety, consistent with the requirement to conduct efficient operations.

Each employee covered by this Memorandum agrees to comply with all safety rules and regulations in effect and any subsequent rules and regulations that may be adopted. Employees further agree that they will report all accidents and safety hazards to the appropriate management official immediately. Any employee having knowledge of or who is a witness to an accident shall, if requested, give full and truthful testimony as to same.

18.2 Safety Equipment

The City shall continue to supply employees with safety equipment required by the City and/or Cal/OSHA. All employees shall use City supplied safety equipment only for the purposes and uses specified under applicable safety rules and regulations.

## **Section 19. Disciplinary Actions**

Employees may be suspended, discharged, or demoted for cause and a copy of the correspondence to the affected employee regarding any such disciplinary action shall be

forwarded to the Union. The action imposed upon an employee may be processed as a grievance through the grievance procedure as outlined in Section 20 of this Memorandum of Understanding.

## **Section 20. Grievance Procedures**

### **20.1 Definition**

A grievance is any dispute which involves the interpretation or application of any provision of this Memorandum of Understanding excluding, however, those provisions of this Memorandum of Understanding which specifically provide that the decision of any City official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure.

### **20.2 Procedure**

A grievance shall be filed according to the following procedure:

(A) Step 1. Immediate Supervisor. A grievance may be filed by an employee on behalf of the employee, or jointly by a group of employees or by the Union.

Within ten (10) calendar days of the event giving rise to a grievance, the grievant shall present the grievance in writing to the immediate supervisor. Grievances not presented within the time period shall be considered resolved.

The supervisor shall meet with the grievant to settle the grievance and give a written answer to the grievant within ten (10) calendar days from the receipt of the grievance by the supervisor. When the immediate supervisor is also the department head, the grievance shall be presented directly in Step 2.

(B) Step 2. Department Head. If the grievance is not resolved in Step 1, the grievant may, within fourteen (14) calendar days from the grievant's receipt of the supervisor's answer, forward the grievance to the grievant's department head for consideration. Answer to the grievance shall be made in writing by the department head, after conferring with the grievant, within ten (10) calendar days from receipt of the grievance.

(C) Step 3. City Manager. Any grievance which has not been resolved by the procedure set forth above may be referred to the City Manager by the grievant in writing within ten (10) calendar days from the grievant's receipt of the department head's answer and the specific issues involved shall be detailed in such referral together with a statement of the resolution which is desired. The City Manager shall designate a personal representative who, when designated, shall investigate the merits of the complaint, meet with the grievant and, if the grievant is not the Union itself, to meet also with the officials of the Union which has jurisdiction over the position or positions which will be directly affected by the resolution of the grievance, and to settle such grievance or to make recommendations thereon to the City Manager in the City Manager's capacity as Employee Relations Officer within fifteen (15) calendar days following the meeting(s).

(D) Step 4. Adjustment Board. In the event the parties hereto are unable to reach a mutually satisfactory accord on any grievance (as the term "grievance" is hereinabove defined) which arises and is presented during the term of this Memorandum, such grievance shall be submitted to an Adjustment Board composed of two (2) representatives designated by the Union and two (2) representatives designated by the City.

The Adjustment Board shall entertain, hear, decide, or make recommendations on any dispute involving a position over which the Union has jurisdiction when such dispute falls within the definition of a grievance as set forth above in Section 18.1. A majority decision of the Adjustment Board shall be final and binding upon the parties.

(E) Step 5. Arbitration. If an Adjustment Board is unable to arrive at a majority decision, either the Association or the City may require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the Association and the City Manager. If the Union and the City are unable to agree on the selection of an arbitrator, they shall jointly request the State Mediation and Conciliation Service to submit a list of seven (7) qualified labor arbitrators. The representative for the Union and the representative for the City shall then alternately strike names until only one name remains, and that person shall serve as arbitrator. Selection of an arbitrator shall be within thirty (30) calendar days of appeal to arbitration. The fees and expenses of the arbitrator and or a Court Reporter shall be shared equally by the Union and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any.

Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by the laws governing General Law Cities in the State of California.

#### 20.3 Extension of Time Limits

The above specified time limits may be extended by mutual agreement between the parties. Failure of the employee or the Union to act within the specified time limits, unless extended, shall dismiss and nullify the grievance. Failure by the City to observe such time limits, unless extended, shall cause the grievance to be moved to the next level of the grievance procedure.

#### 20.4 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the department head. In such cases no adjustment shall be retroactive for more than sixty (60) days from the date upon which the complaint was filed. Only complaints which allege that employees are not being compensated in accordance with the provisions of this Memorandum of Understanding shall be considered as grievances.

Any other matters of compensation are to be resolved in the meet and confer process and if not detailed in the Memorandum of Understanding which results from such meet and confer process shall be deemed withdrawn until the meet and confer process is next opened for discussions.

#### 20.5 Suspension and Discharge Grievances

If the City Manager in pursuance of the procedures outlined in Subsection 20.2 (C) above or the Adjustment Board in pursuance of the provisions of Subsection 20.2 (D) above, resolves a grievance which involves suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time, but in the event the dispute is referred to arbitration and the arbitrator finds that the City had the right to take the action complained of, the arbitrator may not substitute the arbitrator's judgment for the judgment of management and if the arbitrator finds that the City had such right, the arbitrator may not order reinstatement and may not assess any penalty upon the City.

#### 20.6 No Changes in Memorandum

Proposals to add to or change this Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend, or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. Neither any Adjustment Board nor any arbitrator shall have the power to modify or amend this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

#### 20.7 No Strike

The Union, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties; and neither the Union nor any representatives thereof shall engage in job action for the purpose of effecting changes in the directives or decisions of management of the City, nor to effect a change of personnel or operations of management or of employees not covered by the Memorandum.

## **Section 21. Special Provisions**

### **21.1 Safety Committee**

The Safety Committee shall consist of three (3) employees selected by the Union and the representatives selected by the City Manager's Office. The purpose of such Committee is to discuss various safety problems within the City. This Committee shall meet not less than once every three (3) three months and not more than once a month. Said meetings shall not exceed one (1) hour in duration except by mutual agreement of the parties.

### **21.2 Competency Check-Off Rosters**

The Public Works Department has developed a list of operational factors for the safe and effective operation of each piece of equipment used by employees in the Public Works Department. Employees will be instructed on each piece of equipment in accordance with the above described list of operational factors and upon completion of the instruction, the employee's name shall be placed on a roster verifying such instruction for each piece of equipment. Copies of these rosters shall be maintained in the office of the Public Works Superintendent, the vehicle maintenance shop and the employee's personnel file.

The Public Works Department will review the lists of operational factors and the method of instructing employees on the equipment with the Union prior to implementation.

### **21.3 Training**

Upon receipt from the Union of the list of Public Works' employees who desire training on specified pieces of equipment, the Public Works Department will develop a schedule to accomplish the desired training per employee and advise the Union of such schedule. Training will continue to be provided office employees on equipment they utilize. Specific requests for such training will be discussed between the City and the Union.

### **21.4 Shower Room**

The City will provide soap in the employee's shower room at the Public Works Corporation Yard.

### **21.5 Educational Reimbursement**

The City's educational reimbursement policy applies to employees covered by this Memorandum of Understanding who have completed the initial probationary period. The policy provides for reimbursement for the cost of tuition and textbooks for educational courses which are approved in advance by the employee's Department Head and the City Manager. The educational course must be related to the present or known future needs of the City, as well as the employee's employment with the City, and the employee must receive a passing grade of "C" or better if the course is graded, "pass" if the course is offered on a pass/fail basis, or other successful completion of the course in the City's judgment. The specifics of the City's educational reimbursement policy are outlined in the Personnel Rules and Regulations.

### **21.6 Safety Shoes**

The City will make arrangements at a local retail store for Public Works and Parks employees to purchase steel-toed safety shoes. Employees may choose to purchase their safety shoes at the store of their choice, including the store where the City has an account. The City will pay up to one hundred seventy-five dollars (\$175.00) annually for such safety shoes for each such employee; employees will be responsible for any cost in excess of one hundred seventy-five dollars (\$175.00) for the safety shoes chosen.

**21.7 Class B License**

Employees required by the City to possess and maintain a Class "B" license will be reimbursed by the City the cost difference between a class C and a class B.

**21.8 Medical Exam**

Employees who are required to have a medical exam in order to receive their drivers license required for their job, will have the exam done by their own physician on City time and the City will reimburse the employee for the office visit co-pay. If the exam is not covered by the employee's medical plan, the City will make arrangements for an exam on City time.

**21.9 Surveys**

The parties will meet 180 days (six months) prior to the expiration date of this MOU regarding the agencies and scope of data to be included in labor market surveys for the subsequent contract negotiations. The union may submit any requests for additional information needed for negotiations at that time.

**Section 22. Past Practices**

Continuance of working conditions and practices not specifically authorized by ordinance or by resolution of the City Council is not guaranteed by this Memorandum.

This Memorandum of Understanding shall supersede all existing memoranda of understanding between the City and the Union.

**Section 23. Separability of Provisions**

In the event that any provision of this Memorandum of Understanding is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of the Memorandum of Understanding shall be null and void but such nullification shall not affect any other provisions of this Memorandum of Understanding, all of which other provisions shall remain in full force and effect.

**Section 24. Duration**

This Memorandum of Understanding shall be effective July 1, 2004 except for those provisions of the Memorandum of Understanding which have been assigned other effective dates as hereinabove set forth and shall remain in full force and effect to and including the thirtieth (30th) day of June, 2005, and shall continue thereafter from year to year unless at least sixty (60) days prior to the first day of July, 2004, or to the first day of July of any subsequent year either party shall file written notice with the other of its desire to amend, modify, or terminate this Memorandum of Understanding.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding this \_\_\_\_\_ day of \_\_\_\_\_ 2004.



LOCAL 829, COUNCIL 57, AMERICAN  
FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, AFL-CIO

CITY OF BELMONT

\_\_\_\_\_  
By Barbara Ebel

\_\_\_\_\_  
Jere A. Kersnar  
City Manager

ATTEST:

\_\_\_\_\_  
By Daniel Ourtiague

\_\_\_\_\_  
By Rick Locke

\_\_\_\_\_  
Terri Cook  
CLERK, City of Belmont

\_\_\_\_\_  
By Kirk Buckman

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By Kathleen Beebe, Business Agent

## APPENDIX A

- Effective July 1, 2004, the salary ranges for the classifications listed below are as follows:

Accounting Technician I	3575	3754	3942	4139	4346
Accounting Technician II	3933	4130	4337	4554	4782
Building Inspector/Permit Technician	4456	4679	4913	5159	5417
Building Inspector/Plans Examiner	4905	5150	5408	5678	5962
Code Enforcement Officer	3840	4032	4234	4446	4668
Construction Inspector	5603	5883	6177	6486	6810
Electrician	3841	4033	4235	4447	4669
Engineering Technician	4174	4383	4602	4832	5074
Equipment Operator	3841	4033	4235	4447	4669
Head Teacher	3035	3187	3346	3513	3689
Maintenance Worker I	3145	3302	3467	3640	3822
Maintenance Worker II	3460	3633	3815	4006	4206
Mechanic	3841	4033	4235	4447	4669
Office Assistant I	2982	3131	3288	3452	3625
Office Assistant II	3318	3484	3658	3841	4033
Parks Maintenance Worker I	3145	3302	3467	3640	3822
Parks Maintenance Worker II	3460	3633	3815	4006	4206
Planning Technician	3687	3871	4065	4268	4481
Senior Mechanic	4036	4238	4450	4673	4907
Sr. Maintenance Worker	4036	4238	4450	4673	4907
Sr. Parks Maintenance Worker	4036	4238	4450	4673	4907
Teacher	2640	2772	2911	3057	3210

## APPENDIX B

The City will contribute to the Deferred Compensation Plan on behalf of the classifications listed below in the monthly amount specified.

CLASS TITLE	A	B	C	D	E
Accounting Technician I	66.00	68.00	71.00	73.00	75.00
Accounting Technician II	71.00	73.00	75.00	78.00	81.00
Building Inspector/Permit Technician	82.00	85.00	87.00	87.00	87.00
Building Inspector/Plans Examiner	82.00	85.00	87.00	87.00	87.00
Code Enforcement Officer	68.00	71.00	73.00	76.00	79.00
Construction Inspector	82.00	85.00	87.00	87.00	87.00
Electrician	68.00	71.00	73.00	76.00	79.00
Engineering Technician	82.00	85.00	87.00	87.00	87.00
Equipment Operator	68.00	71.00	73.00	76.00	79.00
Head Teacher	40.00	42.00	44.00	47.00	50.00
Maintenance Worker I	62.00	64.00	67.00	69.00	71.00
Maintenance Worker II	65.00	67.00	70.00	72.00	74.00
Mechanic	66.00	68.00	71.00	73.00	76.00
Office Assistant I	57.00	58.00	60.00	62.00	64.00
Office Assistant II	59.00	61.00	63.00	66.00	68.00
Parks Maintenance Worker I	62.00	64.00	67.00	69.00	71.00
Parks Maintenance Worker II	66.00	68.00	71.00	73.00	76.00
Planning Technician	66.00	68.00	71.00	73.00	75.00
Sr. Maintenance Worker	68.00	71.00	73.00	76.00	79.00
Sr. Parks Maintenance Worker	68.00	71.00	73.00	76.00	79.00
Teacher	34.00	36.00	38.00	40.00	42.00

## Side Letter of Agreement

During the recently concluded negotiations for a successor Memorandum of Understanding (MOU) between the City of Belmont and AFSCME Local 829, the following understandings were achieved:

1. During the term of this MOU, representatives of the City and representatives of the Union will meet and confer on revising the current Section 8 Layoffs. When agreement is achieved on any modification to Section 8, such agreed upon provisions will replace the existing Section 8 in the current MOU.
2. During the term of this MOU, representatives of the City and two (2) representatives from the union will participate in a labor-management task force to review and revise the performance evaluation system, including the potential development of a city-wide performance bonus system.

If the foregoing is in conformance with your understanding, please indicate your approval and acceptance in the space provided below.

APPROVED & ACCEPTED:

AFSCME-L829

CITY OF BELMONT

By\_\_\_\_\_

By\_\_\_\_\_

Date\_\_\_\_\_

Date\_\_\_\_\_

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